

Executive Summary – Enforcement Matter – Case No. 51992
EMCAD Water and Wastewater, LLC
RN102287109
Docket No. 2016-0341-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Mayfair Addition WWTF, located at 2700 Highway 1187, on the southwest corner of the intersection of Farm-to-Market Road 1187 and South Hulen Street, approximately three miles southwest of the intersection of Farm-to-Market Road 1187 and Farm-to-Market Road 731, Tarrant County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 27, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,112

Amount Deferred for Expedited Settlement: \$1,822

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,290

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51992
EMCAD Water and Wastewater, LLC
RN102287109
Docket No. 2016-0341-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 11, 2016

Date(s) of NOE(s): March 1, 2016

Violation Information

1. Failed to comply with permitted effluent limitations for ammonia nitrogen, total suspended solids, and 5-day carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013518001, Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to timely submit discharge monitoring reports ("DMRs") at the intervals specified in the permit. Specifically, the monthly DMR for the monitoring period ending November 30, 2015 and the quarterly DMR for the monitoring period ending July 31, 2015, were not submitted by the 20th day of the following month, respectively [30 TEX. ADMIN. CODE § 305.125(1) and (17), and TPDES Permit No. WQ0013518001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On March 15, 2016, the Respondent submitted the monthly DMR for the monitoring period ending November 30, 2015 and the quarterly DMR for the monitoring period ending July 31, 2015.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of DMRs;
- b. Within 45 days, submit written certification of compliance with a; and
- c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013518001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

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Docket No. 2016-0341-MWD-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Sandra Douglas, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2549; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Donald J. Clayton, Owner, EMCAD Water and Wastewater, LLC, 2492
Matterhorn Drive, Wexford, Pennsylvania 15090
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	7-Mar-2016	Screening	9-Mar-2016	EPA Due	
	PCW	9-Mar-2016				

RESPONDENT/FACILITY INFORMATION	
Respondent	EMCAD Water and Wastewater, LLC
Reg. Ent. Ref. No.	RN102287109
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	3
Enf./Case ID No.	51992	Order Type	1660
Docket No.	2016-0341-MWD-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Sandra Douglas
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$6,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **35.0%** **Adjustment** **Subtotals 2, 3, & 7** **\$2,362**

Notes Enhancement for two months of self-reported effluent violations and one agreed order without denial of liability.

Culpability **No** **0.0%** **Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** **Enhancement*** **Subtotal 6** **\$0**

Total EB Amounts **\$975**
Estimated Cost of Compliance **\$10,300**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$9,112**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$9,112**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$9,112**

DEFERRAL **20.0%** **Reduction** **Adjustment** **-\$1,822**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,290**

Screening Date 9-Mar-2016

Docket No. 2016-0341-MWD-E

PCW

Respondent EMCAD Water and Wastewater, LLC

Policy Revision 4 (April 2014)

Case ID No. 51992

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102287109

Media [Statute] Water Quality

Enf. Coordinator Sandra Douglas

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two months of self-reported effluent violations and one agreed order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 9-Mar-2016

Docket No. 2016-0341-MWD-E

PCW

Respondent EMCAD Water and Wastewater, LLC

Policy Revision 4 (April 2014)

Case ID No. 51992

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102287109

Media [Statute] Water Quality

Enf. Coordinator Sandra Douglas

Violation Number 1

Rule Cite(s)

Texas Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013518001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on February 11, 2016 and shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate carbonaceous biochemical oxygen demand (5-day) and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids was also considered. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

58 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended for the quarters containing the months of February and June of 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	X

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$963

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent EMCAD Water and Wastewater, LLC
 Case ID No. 51992
 Reg. Ent. Reference No. RN102287109
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	28-Feb-2015	31-Jan-2017	1.93	\$963	n/a	\$963

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility. Date required is the end date of the first month of noncompliance and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$963

Screening Date 9-Mar-2016

Docket No. 2016-0341-MWD-E

PCW

Respondent EMCAD Water and Wastewater, LLC

Policy Revision 4 (April 2014)

Case ID No. 51992

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102287109

Media [Statute] Water Quality

Enf. Coordinator Sandra Douglas

Violation Number 2

Rule Cite(s)

Texas Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0013518001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on February 11, 2016 and shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate carbonaceous biochemical oxygen demand (5-day) and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids was also considered. Human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of May 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,063

This violation Final Assessed Penalty (adjusted for limits) \$5,063

Economic Benefit Worksheet

Respondent EMCAD Water and Wastewater, LLC
 Case ID No. 51992
 Reg. Ent. Reference No. RN102287109
 Media Water Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 9-Mar-2016

Docket No. 2016-0341-MWD-E

PCW

Respondent EMCAD Water and Wastewater, LLC

Policy Revision 4 (April 2014)

Case ID No. 51992

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102287109

Media [Statute] Water Quality

Enf. Coordinator Sandra Douglas

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0013518001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit discharge monitoring reports ("DMRs") at the intervals specified in the permit, as documented during a record review conducted on February 11, 2016. Specifically, the monthly DMR for the monitoring period ending November 30, 2015 and the quarterly DMR for the monitoring period ending July 31, 2015, were not submitted by the 20th day of the following month, respectively.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 2

86 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

Two single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$675

This violation Final Assessed Penalty (adjusted for limits) \$675

Economic Benefit Worksheet

Respondent EMCAD Water and Wastewater, LLC
Case ID No. 51992
Reg. Ent. Reference No. RN102287109
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	11-Feb-2016	2-Dec-2016	0.81	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	20-Aug-2015	15-Mar-2016	0.57	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished, including the timely submittal of DMRs. Date required is the date of the record review and the final date is the estimated date of compliance.

Estimated cost to submit the delinquent DMRs (\$25 per DMR x 2 DMRs). Date required is the date that the first delinquent DMR was due and the final date is the date the DMR's were submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$12

EMCAD Water and Wastewater, LLC

Docket Number 2016-0341-MWD-E

TPDES Permit No. WQ0013518001

Effluent Parameter Violation Table

	CBOD₅		Ammonia Nitrogen		Total Suspended Solids	
	Daily Average Conc.	Daily Average Loading	Daily Average Conc.	Daily Average Loading	Daily Average Conc.	Daily Average Loading
Monitoring Period	Limit = 10 mg/L	Limit = 8 lbs/d	Limit = 3 mg/L	Limit = 2.4 lbs/d	Limit = 15 mg/L	Limit = 12 lbs/d
February 2015	c	c	c	c	15.75	c
May 2015	17.5	13.62	5.57	4.51	21.75	17.15
June 2015	14	c	6.45	3.12	c	c

Conc. = concentration

mg/L = milligrams per liter

CBOD₅ = Carbonaceous Biochemical Oxygen Demand (5-day)

c = compliant

lbs/d = pounds per day

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604519330, RN102287109, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN604519330, EMCAD Water and Wastewater, LLC	Classification: SATISFACTORY	Rating: 2.86
Regulated Entity:	RN102287109, Mayfair Addition WWTF	Classification: SATISFACTORY	Rating: 4.82
Complexity Points:	5	Repeat Violator: NO	
CH Group:	08 - Sewage Treatment Facilities		
Location:	LOCATED AT 2700 HIGHWAY 1187, ON THE SOUTHWEST CORNER OF THE INTERSECTION OF FARM-TO-MARKET ROAD 1187 AND SOUTH HULEN STREET, APPROXIMATELY THREE MILES SOUTHWEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 1187 AND FARM-TO-MARKET ROAD 731 IN TARRANT COUNTY, TEXAS		
TCEQ Region:	REGION 04 - DFW METROPLEX		
ID Number(s):	WASTEWATER EPA ID TX0105872; WASTEWATER PERMIT WQ0013518001; WASTEWATER LICENSING LICENSE WQ0013518001		

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: March 07, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 07, 2011 to March 07, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Sandra Douglas

Phone: (512) 239-2549

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | | |
|---|---|-----------------------------|--|
| 1 | Effective Date: 04/27/2013 | ADMIN ORDER 2012-1519-MWD-E | (Findings Order-Agreed Order Without Denial) |
| | Classification: Moderate | | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) | | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Rqmt Prov: Effluent Limits PERMIT | | |
| | Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. | | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	March 31, 2011	(917879)	Item 2	May 24, 2011	(939575)
Item 3	June 27, 2011	(946984)	Item 26	November 20, 2013	(1142304)
Item 4	July 18, 2011	(954250)	Item 27	December 23, 2013	(1148741)
Item 5	September 21, 2011	(966923)	Item 28	January 27, 2014	(1154823)
Item 6	October 05, 2011	(958527)	Item 29	February 21, 2014	(1162131)
Item 7	October 24, 2011	(972893)	Item 30	March 17, 2014	(1168749)
Item 8	April 23, 2012	(1011626)	Item 31	April 22, 2014	(1175926)
Item 9	May 21, 2012	(1018007)	Item 32	May 23, 2014	(1182148)
Item 10	June 22, 2012	(1025749)	Item 33	June 23, 2014	(1189047)
Item 11	July 20, 2012	(1033097)	Item 34	July 24, 2014	(1194549)
Item 12	August 22, 2012	(1039612)	Item 35	September 02, 2014	(1200917)
Item 13	September 17, 2012	(1048540)	Item 36	September 19, 2014	(1207376)
Item 14	October 18, 2012	(1068822)	Item 37	October 20, 2014	(1213779)
Item 15	November 26, 2012	(1068823)	Item 38	November 14, 2014	(1220029)
Item 16	December 18, 2012	(1068824)	Item 39	December 30, 2014	(1225840)
Item 17	February 22, 2013	(1082421)	Item 40	January 16, 2015	(1232838)
Item 18	March 22, 2013	(1090957)	Item 41	February 19, 2015	(1243838)
Item 19	April 22, 2013	(1126584)	Item 42	April 20, 2015	(1257100)
Item 20	May 21, 2013	(1108313)	Item 43	May 20, 2015	(1263871)
Item 21	June 25, 2013	(1111902)	Item 44	September 16, 2015	(1291826)
Item 22	July 23, 2013	(1118804)	Item 45	September 22, 2015	(1284706)
Item 23	August 28, 2013	(1126585)	Item 46	October 19, 2015	(1297999)
Item 24	September 23, 2013	(1131133)	Item 47	November 16, 2015	(1303451)
Item 25	October 21, 2013	(1136888)			

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/31/2015	(1270967)	CN604519330	
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
2	Date:	06/30/2015	(1278526)	CN604519330	
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EMCAD WATER AND
WASTEWATER, LLC
RN102287109**

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§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2016-0341-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding EMCAD Water and Wastewater, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 2700 Highway 1187, on the southwest corner of the intersection of Farm-to-Market Road 1187 and South Hulen Street, approximately three miles southwest of the intersection of Farm-to-Market Road 1187 and Farm-to-Market Road 731 in Tarrant County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$9,112 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,290 of the penalty and \$1,822 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that on March 15, 2016, the Respondent submitted the monthly discharge monitoring report (DMR) for the monitoring period ending November 30, 2015, and the quarterly DMR for the monitoring period ending July 31, 2015.

II. ALLEGATIONS

During a record review conducted on February 11, 2016, an investigator documented that the Respondent:

1. Failed to comply with permitted effluent limitations in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013518001, Effluent Limitations and Monitoring Requirements No. 1, and shown in the effluent violation table below.

Effluent Parameter Violation Table						
	CBOD ₅		Ammonia Nitrogen		Total Suspended Solids	
	Daily Average Conc.	Daily Average Loading	Daily Average Conc.	Daily Average Loading	Daily Average Conc.	Daily Average Loading
Monitoring Period	Limit = 10 mg/L	Limit = 8 lbs/d	Limit = 3 mg/L	Limit = 2.4 lbs/d	Limit = 15 mg/L	Limit = 12 lbs/d
February 2015	c	c	c	c	15.75	c
May 2015	17.5	13.62	5.57	4.51	21.75	17.15
June 2015	14	c	6.45	3.12	c	c

Conc. = concentration

mg/L = milligrams per liter

CBOD₅ = Carbonaceous Biochemical Oxygen Demand (5-day)

c = compliant

lbs/d = pounds per day

- Failed to timely submit DMRs at the intervals specified in the permit. Specifically, the monthly DMR for the monitoring period ending November 30, 2015 and the quarterly DMR for the monitoring period ending July 31, 2015, were not submitted by the 20th day of the following month, respectively, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17), and TPDES Permit No. WQ0013518001, Monitoring and Reporting Requirements No. 1.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

- The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: EMCAD Water and Wastewater, LLC, Docket No. 2016-0341-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, the Respondent shall update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of DMRs, in accordance with TPDES Permit No. WQ0013518001, Monitoring Requirements No. 1.
- b. Within 45 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.c.
- c. Within 90 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013518001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order; upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Ramona Monica J.
For the Executive Director

6/29/16
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Donald J. Clayton
Signature

4/26/16
Date

Donald J. Clayton
Name (Printed or typed)
Authorized Representative of
EMCAD Water and Wastewater, LLC

Owner
Title

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Order.

☒ If mailing address has changed, please check this box and provide the new address below:

EMCAD Water and Wastewater LLC
2492 Mathehorn Dr.
Westford, PA 15090